PAYMENT ERROR RATE MEASUREMENT
January 12, 2005

Legislative Background

The Improper Payments Information Act of 2002 (Public Law No. 107-300) was enacted in November 2002 and requires federal agencies to annually review and identify programs and activities that may be susceptible to significant erroneous payments. Federal agencies must estimate the amount of improper payments and report those estimates to Congress, and, if necessary, submit a report on actions the agency is taking to reduce erroneous payments.

To comply with the Improper Payments Information Act, the Centers for Medicare and Medicaid Services (CMS) must estimate improper payments made under Medicare, Medicaid, and the State Children's Health Insurance Program (SCHIP), known as Nevada Check Up in Nevada. CMS has been estimating improper payments in the Medicare program since 1996. However, to comply with Improper Payments Information Act to provide a national payment error rate for the Medicaid and SCHIP programs, CMS is requiring each state, rather than the federal agency, to provide the improper payment estimates. CMS will then compile the state estimates to provide Congress with the national payment error rate for these programs. The Improper Payments Information Act directed the Office of Management and Budget (OMB) to provide guidance to the Administration of the Payment Error Rate Measurement (PERM) program for Medicaid and SCHIP.

The proposed rule (CMS-6026-P) regarding the PERM program (42 CFR Parts 431 and 457) was released on August 27, 2004. The final rule is expected to be released in August 2005. The PERM program will become mandatory in October 2005 for all state Medicaid and SCHIP programs. The proposed rule will require states to calculate improper payment estimates for their Medicaid and SCHIP programs annually, identify programs and activities that may be susceptible to significant erroneous payments, and report the estimates and corrective actions to the Centers for Medicare and Medicaid (CMS) by June 1 each year. It is anticipated this program will reduce the rate of improper payments, thus producing a corresponding increase in program savings at both the state and federal levels.

Section 1102 of the Social Security Act authorizes the Secretary to establish regulations as necessary to facilitate efficient administration of the Medicaid and SCHIP programs. Medicaid law (Section 1902(a) (6) of the Act and SCHIP law (Section 2107(b) (1) of the Act requires states to provide information necessary for the Secretary to monitor program performance. These are the statutory provisions allowing CMS to require states to provide the Secretary with the improper payment estimates in order to calculate a national level improper payment estimate.

Pilot Projects

CMS has conducted annual pilot projects since federal fiscal year (FFY) 2002. These projects were called Payment Accuracy Measurement (PAM) programs and were initiated to research and develop methods to estimate improper payments for Medicaid and SCHIP as required by the Improper Payment Information Act of 2002. PAM projects have continued in the federal fiscal years following FFY 2002. States have voluntarily participated in PAM projects, with 27 states participating in the Year 3 PAM pilot project.

The Year 4 pilot project is called the Payment Error Rate Measurement (PERM) Pilot and 32 states, including Nevada, are participating. The costs for participation in the pilot are 100% federally funded. The usual state's share of the Federal Title XIX and Federal Title XXI financial participation (FFP) is being funded by a Health Care Fraud and Abuse Control (HCFAC) grant. Participation in the PERM Pilot project will provide the Department of Human Resources, Division of Health Care Financing and Policy (DHCFP) and Nevada State Welfare Division (NSWD) with the knowledge and experience necessary to implement an effective PERM program, as mandated, in October 2005.

PERM – Basic Elements

The PERM program consists of a monthly review of randomly sampled Medicaid and SCHIP claims from all the fee-for-service and managed care claims. The random sample consists of paid and denied claims/line items drawn from all claims from each program. Using specific formulas, the improper payment estimate for each program is based on the gross total of overpayments, underpayments, or payments made to ineligible recipients, in other words the absolute value rather than the net value of improper payments. Improper payments for fee-for-service are determined by conducting a processing validation, an eligibility review, and a medical review. Improper payments for managed care are determined by conducting a data processing validation and an eligibility review. A medical review is not necessary for managed care payments.

The state will conduct eligibility, medical, and processing reviews for all Medicaid and SCHIP sampled claims and provide CMS with a payment error rate and any corrective actions in order for CMS to estimate the national error rate for these programs. In the OMB guidance, CMS is to include in their report to Congress a discussion regarding recovery of misspent funds. CMS will propose to include a provision that states would return to CMS, within 60 days, the federal share identified as overpayments in the sampled claims reviewed for data processing and medical necessity in accordance with 42 CRF part 433, subpart F. Reimbursement for payments based on erroneous eligibility is addressed under Section 1903(u) of the Social Security Act.

PERM Program Staffing

The Division of Health Care Financing and Policy (DHCFP) has determined the following positions are necessary to comply with the requirements of this new federally mandated program: two Auditor II positions, two Health Care Coordinator II positions, and one Administrative Assistant II. The Auditor positions will conduct the processing reviews, develop corrective actions and prepare the annual reports. The Health Care Coordinator positions will conduct the medical reviews. The Administrative Assistant will provide clerical support for the new program. In addition, the DHCFP will need to provide physician level expertise for medical necessity reviews. The Nevada State Welfare Division (NSWD) will be conducting the eligibility reviews.

Conclusion

The PERM proposed regulations mandate a new cumbersome and expensive program that will potentially overstate payment error rates. Overstated error rates may lead to inappropriate conclusions at the state and federal levels and could result in reduced program funding. While the impact to federal funding, if the Medicaid and Nevada Check-Up programs do not meet the CMS PERM standards, is unknown, any efforts the DHCFP can undertake to improve the accuracy of claims paid and reduce the error rates in the Medicaid and Nevada Check Up programs can only be beneficial and enhance the integrity of these programs. As indicated above, the final regulations should be available in August 2005.

The DHCFP and NSWD submitted comments to CMS on the proposed regulations as did the National Association of State Medicaid Directors (APHSA) and many other states and organizations. Nevada's comments can be provided upon request.